THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 5062 of 2007

13-03-2007

Between:-

E. Sudhakar

Petitioner

And

The Deputy Tahsildar,
(Deputy Mandal Revenue Officer),
Nandikotkur, Kurnool district and two others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 5062 of 2007

Oral order:

On 14-02-2007, Bharathi Rural Enterprises Godown, Nandikotkur, Kurnool district was inspected by the officials of the Vigilance and Enforcement Wing, Civil Supplies Department. Thereat, 1740 quintals in all of several varieties of pulses were stored. On an allegation that there is violation of the provisions of the Andhra Pradesh Scheduled Commodities Dealers (Licensing and Distribution) Order, 1982 (for short 'the Control Order') as in force, the scheduled commodities were seized under a panchanama recorded.

The petitioner represented for interim release of the seized commodities to his custody on 21-02-2007. This application has not been considered.

While so, on 27-02-2007 by the order impugned, the third respondent directed interim disposal of the seized commodities. The singular reason recorded by the third respondent for ordering interim disposal, in purported exercise of powers under Section 6A (2) of the Essential Commodities Act, 1955 (for short 'the Act') is that the commodities are subject to natural decay. This is an irrelevant and perverse reason. The pulses seized are *per se* not subject to natural decay in the context of the expression occurring in Section 6A (2) of the Act. The statutory limitation on the exercise of power under Section 6A (2) of the Act is that the commodity should be subject to "speedy and natural decay". There could hardly a physical substance in the material world, which is not subject to natural decay. The exercise of power by the third respondent is facially perverse. It beseeches invalidation. It is accordingly quashed, in particular in the light of the principles laid down by this Court in W.P.No. 3761 of 2007 by the judgment dated 27-02-2007.

The writ petition is accordingly allowed, after hearing the learned Government Pleader for Civil Supplies. The third respondent is however at liberty to pass fresh orders in accordance with law. There shall be no order as to costs.

GODA RAGHURAM, J

Dated:13-03-2007

Pvks/*

Nb:- Furnish c.c. as soon as possible.
B/o pvks/*